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11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 LEONARD C. WARREN, an Individual,

14 Plaintiff,

15 vs.

16 STAYSAYER VACATIONS, LLC, a
17 foreign limited-liability company,

18 Defendant.
19

CASE NO.:

COMPLAINT AND JURY DEMAND

20
21 The Plaintiff Leonard C. Warren (“**Mr. Warren**” or “**Plaintiff**”) by and through his
22 attorneys, of HKM Employment Attorneys LLP, hereby complain and allege as follows:

23 **JURISDICTION**

24 1. This is an action for damages brought by Plaintiff for unlawful workplace
25 discrimination and retaliation based on race under Title VII of the Civil Rights Act of 1964
26 (“Title VII”), 42 U.S.C. §2000e et seq., and Nevada Revised Statute §613.330 *et seq.*; for
27 violation of the Civil Rights Act of 1871, §1981; and for certain claims brought pursuant to the
28 Nevada Revised Statutes as outlined below.

1 2. This Court has primary jurisdiction over claims set forth herein pursuant to 28
2 U.S.C. § 1331 (federal question), 28 U.S.C. §1343(a) (4) (civil rights action) and 42 U.S.C.
3 §2000e-5(f)(3) (unlawful discrimination and retaliation in employment). Additionally, this
4 Court has supplemental jurisdiction over any state law claims pled herein pursuant to 28 U.S.C.
5 § 1367.

6 3. All material allegations contained in this Complaint are believed to have
7 occurred in Clark County, Nevada. Therefore, venue properly lies in the southern division of
8 the United States Court for the District of Nevada pursuant to 28 U.S.C. §1391(b)(2).

9 **EXHAUSTION OF ADMINISTRATIVE REMEDY**

10 4. On or about March 10, 2021, Plaintiff initiated the process of filing a Charge of
11 Discrimination against his employer, the Defendant named in this action with the Nevada Equal
12 Rights Commission wherein he alleged discrimination based on race, age, sex, and retaliation.

13 5. On or about March 30, 2021, Plaintiff received his Notice of Right to Sue from
14 the EEOC.

15 6. This action is timely filed pursuant to 42 U.S.C. § 2000e-5(f).

16 7. Plaintiff has exhausted his administrative remedy on all claims pled hereunder
17 prior to filing this action with this Court.

18 **GENERAL ALLEGATIONS**

19 8. Plaintiff incorporates all of the allegations in the preceding paragraphs as though
20 fully set forth herein.

21 9. Plaintiff is a United States citizen and current resident of Clark County, Nevada.

22 10. Defendant STAYSAVER VACATIONS, LLC (hereinafter “**Company**” or
23 “**Defendant**”) is a foreign limited-liability company and an employer in the State of Nevada.

24 11. At all times relevant to this matter, Defendant had over 50 employees, and is
25 therefore subject to the provisions of Title VII.

26 12. Plaintiff is an African American male.

27 13. Plaintiff has over thirty-five years of sales experienced and two formal degrees.

28 14. Plaintiff began working for Defendant in or around June 2020 as a Sales

1 Representative (“Sales Rep”).

2 15. Plaintiff predominately worked out of the Excalibur Hotel and Casino, where he
3 would operate a sales table as well as give sales presentations.

4 16. Beginning on January 13, 2021, after a three-week furlough, David LNU
5 approached Plaintiff in the lobby at Staysaver Vacations before the morning sales meeting and
6 asked Plaintiff to walk with him away from the office.

7 17. Plaintiff followed David to the Krispy Kream Doughnuts located in the food
8 court.

9 18. David began by praising Plaintiff’s job performance and told him that he was a
10 talented closer.

11 19. Plaintiff believed that he was going to be given a promotion, since he had not
12 only been one of the top performers, but also because he had specifically requested for a
13 promotion on multiple occasions.

14 20. Instead, David instructed Plaintiff to help Jackie LNU, a “T.O. Manager,” who
15 was not performing as well as other employees.

16 21. Plaintiff explained that Jackie was often late to getting to the sales table and
17 routinely failed to close deals.

18 22. David explained to Plaintiff that other managers were jumping ahead of Jackie
19 and so she was not getting her share of closing opportunities.

20 23. Upon information and belief, Plaintiff disagreed as to David’s reasoning as he
21 had just explained to David that Jackie had several shortcomings.

22 24. Nevertheless, David insisted that Plaintiff support Jackie.

23 25. David then instructed Plaintiff not to tell anybody about the conversation that
24 they had just had regarding Jackie.

25 26. Plaintiff was not only confused by David’s demand to keep the conversation
26 between them, but he was also confused by the fact that he was not a Training Manager or in
27 any staff management position that would have control over Jackie.

28 27. In fact, David was a Training Manager and was in control of the sales floor

1 traffic, lead flow, as well as who got assigned to certain tables for closing.

2 28. Plaintiff felt uncomfortable with David's command to help Jackie, but because
3 of David's tone and demeanor, Plaintiff believed that helping Jackie was a condition of his
4 employment.

5 29. Following David's instruction, because Plaintiff feared for his job, he texted
6 Jackie in an attempt to set up a meeting to go over closing techniques, but Jackie replied that
7 she was too busy to talk and the meeting never happened.

8 30. Upon information and belief, the following work week, Plaintiff was isolated in
9 a sales room for a sales presentation.

10 31. David was the only manager present, overlooking Plaintiff's presentation.

11 32. Upon information and belief, while Plaintiff was giving the presentation, Jackie
12 begged David for the sale.

13 33. When Plaintiff concluded his presentation, Jackie appeared to try and close the
14 deal.

15 34. However, Jackie failed to close the deal.

16 35. Upon information and belief, Plaintiff believes that other Managers would have
17 been able to close the deal.

18 36. The following day, upon information and belief, Plaintiff was put in an almost
19 identical situation, where he was once again isolated in a sales room to give another
20 presentation, with David observing and Jackie in the closing position.

21 37. Once again, after Plaintiff's presentation, Jackie failed to close the deal.

22 38. Upon information and belief, Plaintiff was in disbelief as to why he was the only
23 person being forced into these positions when there were over twenty-five other sales
24 representatives.

25 39. Accordingly, on or about January 15, 2021, Plaintiff discussed the matter with
26 his Team Leader, Lee Morgan.

27 40. Following the morning sales meeting, Plaintiff expressed to Mr. Morgan that he
28 was uncomfortable with David forcing him to help Jackie.

1 41. Plaintiff further expressed to Mr. Morgan that he was uncomfortable being the
2 only Sales Representative that was being isolated on the sales floor with Jackie when there were
3 several other closers.

4 42. Plaintiff also reported to Mr. Morgan that David had instructed him to keep their
5 previous conversation regarding the forced assistance of Jackie quiet.

6 43. Plaintiff stated to Mr. Morgan that this also made him uncomfortable because
7 there were so many others that could close the deals but that he was being forced to help Jackie.

8 44. Upon information and belief, it had already been a few weeks, and Plaintiff
9 explained that Jackie was not performing any better and that her performance, or lack thereof,
10 was directly affecting Plaintiff's job and compensation.

11 45. Plaintiff once again mentioned the promotion that he had requested prior
12 because he was such a strong performer, and that he had significantly more experience than
13 Jackie as well as other Manger TOs.

14 46. Mr. Morgan replied to Plaintiff's legitimate inquiry dismissively, telling him to
15 just go along with it for now, essentially telling Plaintiff to continue accepting being exploited.

16 47. Upon information and belief, the same day, Plaintiff asked David to pay a
17 \$200.00 commission that was owed to Plaintiff following a \$9,000.00 deal that David closed
18 and got paid for because of Plaintiff.

19 48. Plaintiff was told that he was not entitled to the \$200.00 because Plaintiff had
20 been furloughed, despite Plaintiff being the one who brought in the customer.

21 49. Plaintiff expressed that it was unfair that he was not being paid the wages he was
22 owed.

23 50. Upon information and belief, shortly thereafter on the same day, Jackie was
24 trying to close a deal for Plaintiff, but she was once again floundering in closing the deal.

25 51. Plaintiff, as a form of support, called her away from the table to give the tour
26 time to think.

27 52. When Plaintiff did so, he utilized the opportunity to reassure her and help her
28 close the deal.

1 53. During this time, Plaintiff further reassured Jackie that she was being supported
2 by the Company because he was instructed to help her progress.

3 54. Specifically, Plaintiff told Jackie that he had “over 40 years of experience in
4 sales and that [Plaintiff] would help her.”

5 55. Upon information and belief, David was in close enough proximity that he heard
6 Plaintiff express his support of Jackie.

7 56. Jackie then hugged and thanked Plaintiff for his support and returned to the table
8 and closed the deal.

9 57. Upon information and belief, not long after, Plaintiff, who was still supporting
10 Jackie, noticed that she was still being late and failing to close deals.

11 58. Accordingly, during this work week, Plaintiff sold two more deals with other
12 closing managers, David being one of them.

13 59. Upon information and belief, during this week, Plaintiff ended with a total of
14 three deals, which amounted to over \$13,000.00, which meant that his commission for the week
15 should have included \$400.00.

16 60. Upon information and belief, Plaintiff was told by David that he would be paid
17 the commission owed on January 17, 2021.

18 61. Upon Plaintiff’s arrival to work on January 17, 2021, Plaintiff was asked to
19 speak with David in his office before the morning meeting.

20 62. Plaintiff thought that David was pulling Plaintiff aside to pay him the
21 commissions that he was owed and previously discussed.

22 63. Plaintiff was instead terminated by David who informed Plaintiff that he was
23 being terminated for sexual harassment.

24 64. Dumbfounded, Plaintiff inquired with David as to how this fabricated claim
25 could be true and asked for details as to who could even make such an accusation.

26 65. David did not respond to Plaintiff’s legitimate inquiries, and instead told him
27 that he must “pony up” for a lawyer to obtain such information.

28 66. Upon further inquisition by Plaintiff, David also stated that he had fired Jules

1 LNU, another highly qualified African American salesperson for sexual harassment.

2 67. Plaintiff then contacted Jules and asked about his termination, in which Jules
3 explained that he had been supposedly terminated for sexual harassment, even though there was
4 no allegation, investigation, or even facts to support such an outrageous allegation.

5 68. The conversation with Jules confirmed that David, upon information and belief,
6 was fabricating sexual harassment complaints to terminate Plaintiff, as well as other African
7 American employees.

8 69. After the phone call with Jules that confirmed that Defendant was terminating
9 people based on false allegations, Plaintiff was told by David to pack up all of his things and
10 leave.

11 70. Plaintiff was never paid the compensation that he was duly owed as he was
12 immediately discontinued from the Company payroll, despite there being no investigation or
13 any notification to Plaintiff regarding such baseless accusations.

14 71. Upon information and belief, all of the staff is Caucasian or Caucasian with
15 Mexican decedent.

16 72. David is Caucasian.

17 73. Upon information and belief, Plaintiff was one of the top producers for the
18 Company.

19 74. Plaintiff has been recognized for his superior work performance on several
20 occasions.

21 75. Upon information and belief, Plaintiff and Jules were the only African
22 Americans working in this position under David; both of whom were fired under false
23 accusations.

24 **EMPLOYER/EMPLOYEE RELATIONSHIP ALLEGATIONS**

25 76. Defendant classified Plaintiff and its other sales reps as independent contractors
26 even though it directly and indirectly controlled the manner in which they performed their work.

27 77. Defendant did not permit Plaintiff and its other sales reps to decide their own
28 schedule or make their own hours.

1 78. Defendant required Plaintiff and all its other sales reps to attend a daily morning
2 meeting at 9:00 a.m. everyday.

3 79. Plaintiff and the other sales reps were subjected to discipline if they failed to
4 attend the mandatory 9:00 a.m. sales meeting.

5 80. Plaintiff and Defendant's other sales reps were required to make specific and
6 scripted sales pitches to Defendant's customers which were designed by Defendant, and
7 Plaintiff and Defendant's other sales reps were not permitted to deviate from that scripted sales
8 pitch.

9 81. Defendant's designed sales pitch was laid out in a sales handbook/sales training
10 manual that was given out to all its sales reps, including Plaintiff, and such persons were
11 required to study, learn, and master such sales pitch.

12 82. Plaintiff and the other sales reps were required to work until they were excused
13 by their supervisors if they were not placed on the final sales tour of the day.

14 83. If a prospective customer was interested in purchasing a membership during the
15 last tour of the day, Plaintiff and the other sales reps were not allowed to leave until the sales
16 transaction was complete.

17 84. Plaintiff and the other sales reps were required to adhere to a strict "professional"
18 dress code.

19 85. On at least one occasion, Plaintiff was sent home by one of Defendant's
20 managers because he was wearing a sweater that he was told did not fit Defendant's strict
21 "professional" dress code.

22 86. Plaintiff and the other sales reps were not required by Defendant to hold or
23 possess any type of special license to sell memberships to Defendant's customers.

24 87. Plaintiff and the other sales reps were not required by Defendant to hold or
25 possess a business license to sell memberships to Defendant's customers.

26 88. Defendant made all decisions regarding advertising, equipment, and other office
27 supplies, and provided all the sales and marketing materials that Plaintiff and the other sales
28 reps could use in order to sell memberships to Defendant's customers.

1 8. Plaintiff was embarrassed, humiliated, angered and discouraged by the
2 discriminatory actions taken against her.

3 9. Plaintiff suffered compensable emotional and physical harm, including but not
4 limited to, headaches, sleeplessness, anxiety and depression resulting from this unlawful
5 discrimination by his employer.

6 10. Plaintiff is entitled to be fully compensated for his emotional disturbance by
7 being forced to endure this discrimination.

8 11. Pursuant to 1991 Amendments to Title VII, Plaintiff is entitled to recover
9 punitive damages for Defendant's intentional repeated violations of federal and state civil rights
10 laws.

11 12. Plaintiff suffered damages in an amount deemed sufficient by the jury.

12 13. Plaintiff is entitled to an award of reasonable attorney's fees.

13 14. Defendant is guilty of oppression, fraud or malice, express or implied as
14 Defendant knowingly and intentionally discriminated against Plaintiff because of his race and
15 disability.

16 15. Therefore, Plaintiff is entitled to recover damages for the sake of example, to
17 deter other employers from engaging in such conduct and by way of punishing the Defendant
18 in an amount deemed sufficient by the jury.

19 **SECOND CAUSE OF ACTION**

20 **(Violation of the Civil Rights Act of 1871, §1981)**

21 16. Plaintiff incorporates all of the allegations in the preceding paragraphs as though
22 fully set forth herein.

23 17. Plaintiff is African American and therefore a member of a protected class.

24 18. Defendant engaged in the above-mentioned harassment and discrimination of
25 Plaintiff with the purposeful intent to discriminate against his because of his race (African
26 American).

27 19. Under similar circumstances, other, white or non-African American employees
28 were not subjected to a racially hostile working environment.

1 exceeding \$25,000 for emotional pain, suffering, inconvenience, mental anguish and loss of
2 enjoyment of life because they engaged in illegal actions.

3 33. Because Defendant is guilty of oppression, fraud or malice, express or implied,
4 Defendant must pay Plaintiff an additional amount for the sake of example and by way of
5 punishment.

6 34. Plaintiff has had to obtain the services of an attorney to protect his rights and
7 secure compensation for the damages incurred as a result of these violations and therefore, he
8 is entitled to recover reasonable attorney's fees against Defendant.

9 **WHEREFORE**, Plaintiff prays this court for:

10 a. A jury trial on all appropriate claims;

11 moreover, to enter judgment in favor of the Plaintiff by:

12 b. Awarding Plaintiff an amount sufficient to fully compensate his (including tax
13 consequences) for all economic losses of any kind, and otherwise make his
14 whole in accordance with Title VII, the Civil Rights Act of 1871, §1981, and
15 certain claims brought pursuant to the Nevada Revised Statutes;

16 c. General damages;

17 d. Special damages;

18 e. An award of compensatory and punitive damages to be determined at trial;

19 f. Pre- and post-judgment interest;

20 g. An award of attorney's fees and costs; and

21 h. Any other relief the court deems just and proper.

22 Dated this 28th Day of June, 2021.

23 **HKM EMPLOYMENT ATTORNEYS, LLP**

24 /s/ Jenny L. Foley

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